



National Association of Independent
Colleges and Universities

Docket ID ED-2009-OPE-0005

September 18, 2009

Ms. Jessica Finkel
U.S. Department of Education
1990 K Street, NW
Room 8031
Washington, DC 20006-8502

Dear Ms. Finkel:

I am writing on behalf of the National Association of Independent Colleges and Universities (NAICU) in response to the notice of proposed rulemaking dealing with the General and Non-Loan Programmatic Issues, published in the August 21, 2009, Federal Register.

Our comments relate to regulations regarding the disclosure of employment information included in the proposed **Section 668.41(d)(5)**, which appear on page 42438 of the Federal Register notice. Specifically, we ask that the Department strike the proposed requirements related to placement rates that are included in Section 668.41(d)(5)(i)(A) and (iii).

During the Team V negotiated rulemaking process, representatives of private, nonprofit colleges were among the non-federal negotiators who raised objections to the insertion of placement rate information into the list of items related to the types of employment obtained by the graduates of an institution. These objections were based on the fact that the requirement exceeds the scope of the statute and that it imposes an excessive burden on institutions.

This provision of the law is one that was discussed at length during the six years of legislative work leading to the enactment of the Higher Education Opportunity Act in 2008. This is not an area of the statute that was ambiguous or in need of regulatory embellishment.

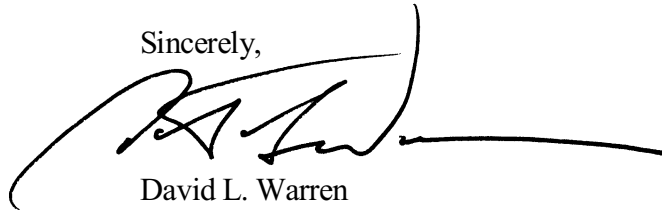
Initial legislative proposals would have imposed onerous and unworkable data collection requirements on institutions. Information about post-graduate activities must be obtained from an institution's alumni-who are not obligated to respond to requests for information. The more general disclosure requirements that were developing during negotiations with Congress were intended to be illustrative of post-graduation activities, not detailed reports.

In fact, the Department acknowledges in the preamble to the regulations (page 42394) that the statute does not call for the disclosure of placement rate information.

Any benefit that might accrue from the disclosure of the scattered and disparate placement rate information that may be collected will be far outweighed by the burden on institutions to collect it. Essentially, in order to assure that an institution is in compliance, someone on campus will need to survey every program offered at the institution to determine whether or not it develops placement rate information. It is significant that, of the approximately 20 items for which burden increase estimates are included in the notice of proposed rulemaking (see chart, pp. 42426-7), the additional burden for this requirement is exceeded only by new requirements relating to peer-to-peer file sharing, emergency response and evacuation procedures, and year-round Pell grants.

We appreciate having the opportunity to state our concerns about this proposed regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "D. L. Warren", with a long horizontal flourish extending to the right.

David L. Warren